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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Jim Munene,

CV 19-00220-TUC-RM (LAB)

Plaintiff,

ANSWER

VS.

Kevin K. McAleenan, Acting Secretary,
United States Department of Homeland
Security,

Defendant.

1. Answering paragraph I.A. of Plaintiff's Complaint, Defendant lacks knowledge and information sufficient to form a belief as to the truth of the allegations, and therefore denies them.

2. Answering paragraph I.B. of Plaintiff's complaint, Defendant admits only that Kevin K. McAleenan is presently the Acting Secretary of the Department of Homeland Security. Defendant denies the remaining allegations of Paragraph I.B.

3. Answering paragraph I.C. of Plaintiff's Complaint, Defendant admits that Plaintiff was previously employed by Customs and Border Protection. Defendant denies any remaining allegations contained in paragraph I.C.

4. Paragraph II of Plaintiff's Complaint contains legal conclusions to which no response is required.

5. Answering paragraph III of Plaintiff's Complaint, Defendant denies the allegations.

6. Answering paragraph IV of Plaintiff's Complaint, Defendant lacks knowledge and information sufficient to form a belief as to the truth of the allegations, and therefore denies them.

7. Answering paragraph V of Plaintiff's Complaint, Defendant denies the allegations.

8. Paragraph VI of Plaintiff's Complaint contains legal conclusions to which no response is required.

ADDITIONAL DENIALS

9. Defendant denies each and every allegation of Plaintiff's Complaint not expressly admitted.

10. Defendant denies that it is liable for any conduct of any kind or nature whatsoever that would warrant the imposition of damages against it, as alleged or at all.

AFFIRMATIVE DEFENSES

11. Defendant asserts the defense of failure to exhaust administrative remedies. Any and all claims and issues that Plaintiff asserts in this action but that were not presented to the Equal Employment Opportunity Commission and prosecuted to completion must be dismissed for failure to exhaust administrative remedies.

12. All actions of Defendant with respect to Plaintiff were for legitimate, nondiscriminatory reasons, and those reasons were and are not pretextual.

13. Defendant acted at all times in good faith toward Plaintiff.

14. Defendant has or may have further and additional defenses that are not yet known but that may become known through further investigation, disclosure and discovery. Defendant asserts each and every affirmative defense as may be ascertained through further investigation, disclosure and discovery, including those set forth in Rules 8 and 12 of the Federal Rules of Civil Procedure. Defendant requests and reserves the right to supplement, amend or revise this pleading to explicitly state such defenses.

WHEREFORE, Defendant requests judgment in his favor dismissing the Complaint with prejudice with Plaintiff taking nothing thereby and that Defendant be awarded his fees

1 and costs and all other and further relief the Court deems appropriate.

2 Respectfully submitted this 8th day of November, 2019.

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4 MICHAEL BAILEY
United States Attorney
District of Arizona

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6 *s/Melissa Marcus Kroeger*
MELISSA MARCUS KROEGER
7 Assistant U.S. Attorney

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CERTIFICATE OF SERVICE

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10 I hereby certify that on November 8, 2019, I electronically transmitted the attached
document to the Clerk's Office using the CM/ECF System for filing and transmittal of a
11 Notice of Electronic Filing to the following CM/ECF registrants:

12 Jim Munene
13 425 Bernini Ave.
Sierra Vista, AZ 85635
Plaintiff Pro Se

14 *s/Mary M. Parker*

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